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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,801	03/18/2004	Sascha Albus	LZ-85	5607

7590 01/29/2007
Friedrich Kueffner
317 Madison Avenue, Suite 910
New York, NY 10017

EXAMINER

JACKSON, BRANDON LEE

ART UNIT	PAPER NUMBER
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3772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/803,801

Applicant(s)

ALBUS ET AL.

Examiner

Brandon Jackson

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 10-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 03/18/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, drawn to figures 1-2, classified in class 602, subclass 57.
- II. Claims 10-12, classified in class 264, subclass 165.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the claimed wound dressing can be formed by another process where the device is not stamped together.

During a telephone conversation with Friedrich Kueffner on 1/17/2007 a provisional election was made without traverse to prosecute the invention of figures 1-2, claims 1-9. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-12 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 8 rejected under 35 U.S.C. 102(e) as being anticipated by Faasse, Jr. (U.S. Patent Application Publication 2002/0107466). Faasse discloses a wound dressing product (10) comprising, a web-shaped wound dressing element (16) having an adhesive surface (14) wherein there is a cover arrangement (13) encloses the wound dressing element (16). Faasse discloses that the cover arrangement can be die cut at space intervals (par 0023, lines 7-9), which inherently means it can be die cut or partitioned down the center parallel to a release strip (11) to create two cover elements. A release aid (11, 12) is connected to each side of the cover arrangement, comprising a release strip (11) and an adhesive layer (12) bonding the release strip (11) to the cover arrangement (13) and over-lapping both of the cover elements.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3772

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Faasse, Jr. (U.S. Patent Application Publication 2002/0107466). Faasse substantially discloses the claimed invention; see claim 1 rejection above. Faasse also discloses the removal aid (11, 12) can be made of plastic, paper, or silicone (par 0014, lines 1-2); which is different from the polymeric film (par 0003, lines 3-4) of the cover arrangement (13). The removal aid (11, 12) can be distinguished haptically because they are made of different materials with different feeling. However, Faasse fails to disclose at least one of the removal aids being distinguishable by visual appearance from the at least one of the cover elements. At the time of the invention it would have been an obvious matter of design choice to a person of ordinary skill in the art to make the removal aid and cover elements of different colors because Applicant has not disclosed that the different colors provide an advantage, is used for a particular purpose, or solves a stated problem. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the color of the removal aid and cover elements of

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Faasse to obtain the claimed invention because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Faasse.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Faasse, Jr. (U.S. Patent Application Publication 2002/0107466) in view of Anhauser et al. (U.S. Patent 6,278,036). Faasse substantially discloses that claimed invention; see claim 1 rejection above, however Faasse fails to disclose a reinforcement element provided on the lateral edge of the wound dressing element. Anhauser teaches a reinforcement member (6) placed on each of the two opposing edges of the wound dressing (col. 4, lines 23-26). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Faasse with the reinforcement member of Anhauser because it holds the layers together and creates a hinge to make it easier to remove the release layer (15).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ward (U.S. Patent 4,753,232) and Johns (U.S. Patent 4,513,739).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon Jackson whose telephone number is (571)272-3414. The examiner can normally be reached on Monday - Friday 8-5:30.

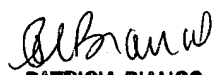
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571)272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brandon Jackson
Examiner
Art Unit 3772

BLJ


PATRICIA BIANCO
SUPERVISORY PATENT EXAMINER
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1/22/07